

Charges for shipping are gross receipts subject to Retailers' Occupation Tax when they are part of the selling price of the tangible personal property being sold. See 86 Ill. Adm. Code 130.415. (This is a GIL).

September 25, 2002

Dear Xxxxx:

This letter is in response to your letter dated May 28, 2002. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/Laws/regs/part1200/>.

In your letter, you have stated and made inquiry as follows:

We hereby request a ruling on the taxability of transportation and delivery charges based on the following set of facts:

Facts:

1. New York retail company ('W') sells tangible personal property to New York company ('N').
2. Product (office furniture) is to be drop shipped to the Illinois branch/division/subsidiary of N.
3. W's proposal shows each item of product, labor (installation) and transportation charges (delivery, freight, etc.) on separate lines.
4. Proposal is adjusted, if necessary, and agreed to by N.
5. Transportation charges represent actual costs charged to W by the manufacturer/common carrier/local delivery company. No excess charged.

Based on this set of facts, are these transportation expenses subject to use tax in Illinois? If you have any questions or require additional information, please contact PERSON. Thank you.

For your information and reference please find enclosed a copy of the Department's regulation on treatment of transportation and delivery charges under the Retailers' Occupation Tax Act. 86 Ill. Adm. Code 130.415. As you can see from the regulation, transportation and delivery charges, also designated as shipping and handling charges, are not taxable if it can be shown that the charges are separately contracted for and the charges are actually reflective of the costs of shipping. To the extent the transportation and delivery charges exceed the costs of shipping, the charges will be subject to tax.

As noted in subsection 130.415(d), if the seller and the buyer agree upon the transportation or delivery charges separately from the selling price of the tangible personal property that is sold, then the cost of the transportation or delivery service is not a part of the "selling price" of the tangible personal property that is sold, but instead is a service charge, separately contracted for, and need not be included in the figure upon which the seller computes his Retailers' Occupation Tax liability. Delivery charges are deemed to be agreed upon separately from the selling price of the tangible personal property being sold as long as the seller requires a separate charge for delivery and as long as the charges designated as transportation or delivery or shipping and handling are actually reflective of the costs of such shipping, transportation or delivery. To the extent that such charges exceed the costs of shipping, transportation or delivery, the charges are subject to tax.

The best evidence that transportation or delivery charges were agreed to separately and apart from the selling price, is a separate and distinct contract for transportation or delivery. However, documentation that demonstrates that the purchaser had the option of taking delivery of the property, at the seller's location, for the agreed purchase price, or having delivery made by the seller for the agreed purchase price, plus an ascertained or ascertainable delivery charge, will suffice.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Martha P. Mote  
Associate Counsel

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